

Serial No. 09/827,031  
Docket No. 40655.1000

**REMARKS**

Applicants reply to the Office Action dated June 23, 2005, within the shortened three-month statutory period for reply. Claims 21-32 were pending in the application and the Examiner rejects claims 21-32. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by these amendments. Reconsideration of this application is respectfully requested.

**Declaration**

The Examiner states that the declaration is defective because it includes non-initialed and non-dated alterations. Applicants respectfully point the Examiner to MPEP § 602.03 which indicates that the Examiner can waive the deficiency in cases where "minor deficiencies in the body of the oath or declaration where the deficiencies are self-evidently cured in the rest of the oath or declaration." In the alternative, Applicants request that the Examiner hold the objection in abeyance until the indication of allowable subject matter in this Application.

**Rejection under 35 U.S.C. § 101**

The Examiner rejects claims 21-31 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants amend independent claim 21 to clarify that the disclosed method steps are carried out by a computer. Claims 22-31 variously depend from independent claim 21, so claims 22-31 overcome the rejection for the same reason as set forth above.

**Rejection under 35 U.S.C. § 102(a)**

The Examiner rejects claims 21-26, 28-30 and 32 under 35 U.S.C. § 102(a) as being anticipated by Shoman et al., U.S. Patent No. 6,584,451 B1 ("Shoman") in view of Halbert et al., U.S. Patent No. 6,101,484 ("Halbert"). Applicants respectfully traverse this rejection.

In general, Shoman discloses a system for aggregating the buying power of individual buyers in order to obtain volume discounts on goods and services. The Shoman system includes a web interface to enable sellers to post products and services for sale as well as an indication of a minimum low price they are willing to except. Buyers interact with the system to indicate an interest in certain products and services along with an indication of a maximum price they are willing to pay. The Shoman system then finds the largest quantity at the smallest price for desired goods and determines if a deal can be made between the seller and buyers.

The Shoman reference is limited to providing an optimum price-point, wherein vendors can receive an acceptable purchase price for goods and services that is above a defined minimum

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and buyers can execute a purchase that is less than their defined maximum. The Shoman system accepts bids from aggregated buyers for goods offered by a vendor. However, the auction and sale consummation processes disclosed by Shoman is not in-of-itself unique over those processes of a standard auction. In other words, buyers place a bid representing a maximum amount they are willing to pay, and if the bid meets the standards defined by the seller, then the sale can be consummated.

The Examiner correctly notes that Shoman "does not explicitly disclose that the consumer-defined purchase rules are stored in a database" (page 4, paragraph 1). However, the Examiner asserts that Halbert does disclose the above step of storing consumer-defined purchase rules in a database.

Halbert generally discloses a market equilibrium management system for selling goods and services through an online buying group. According to Halbert, in order to join a buying group, a consumer must indicate a maximum buying price for a product or service. The maximum buying price essentially locks the consumer into making the purchase if a seller is able to meet the buying price. The binding purchase offer is guaranteed by the consumer's credit card. The buyer's information, including the binding purchase offer, is then stored in a database. The Halbert system then collects a group of buyers from the database with binding purchase offers for the same products or services. From this data, the Halbert system is able to create real-time yield management information that can be provided to sellers to recommend a lower price per unit.

Both Shoman and Halbert disclose systems that enable buyers to increase their purchase power by forming co-ops. Likewise, both disclose systems that enable sellers to determine the appropriate pricing of goods and services in order to obtain the greatest number of sales at the greatest price possible. However, both references are directed toward helping the seller make their goods and services more appealing to a number of buyers, rather than making groups of buyers more appealing to sellers. Making groups of buyers more appealing to sellers provides greater motivation for the seller to reduce prices and possibly provide additional incentives relating to the specific needs and desires of a group of buyers. As such, neither Shoman, Halbert, nor a combination thereof disclose or suggest at least, "accepting, at said computer, a bid from said vendor to provide said item to a consumer associated with said subset based on an

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ability of said vendor to accommodate said consumer-defined purchase rule of said subset," as similarly recited by independent claims 21 and 32.

Dependent claims 22-26 and 28-30 variously depend from independent claim 21. As such, dependent claims 22-26 and 28-30 are differentiated from the cited references for at least the reasons described above, as well as in view of their own respective features.

The Examiner next rejects claims 27 and 31 under 35 U.S.C. § 103(a) as being anticipated by Shoman in view of Halbert as applied to claim 21, and in further view of Walker et al., U.S. Patent No. 5,794,207 ("Walker"). Applicants assert that claims 27 and 31 depend from independent claim 21, so claims 27 and 31 are differentiated from the cited references for at least the reasons described above, as well as in view of their own respective features.

In view of the above remarks and amendments, Applicants respectfully submit that all pending claims properly set forth that which Applicants regard as their invention and are allowable over the cited references. Accordingly, Applicants respectfully request allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject Application. Applicants authorize and respectfully request that any fees due be charged to Deposit Account No. 19-2814.

Respectfully submitted,



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Dated: 8/4/05

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